

REMARKS

The above-referenced application has been reviewed in light of the Office Action mailed April 5, 2005. By the present amendment, the Applicants have amended claim 4. It is respectfully submitted that the claims pending in the application do not introduce new subject matter, are fully supported by the application and are patentable over the prior art. Prompt and favorable consideration of these claims is earnestly sought.

The Office Action objected to the specification as failing to provide support for the recitation of the balloon having a length along the axis of the tubular member less than a length along a transverse axis of the tubular member. In the interests of furthering prosecution of the subject application, the Applicants have amended claim 4 to recite other features disclosed in the specification. Support for the amended language in claim 4 can be found on page 96, lines 2-3 of the specification. Therefore, it is respectfully submitted that the claimed subject matter is fully supported by the specification and the objection of the Office Action has been overcome.

The Office Action rejected claims 2, 3, 5, 7, and 9 under 35 U.S.C. § 102 (b) as anticipated by U.S. Patent No. 5,925,058 to Smith et al. (the '058 patent). According to the Office Action, the '058 patent discloses a balloon device having a tube 505, a handle 509, 513, 514, a balloon 512 having a neck 512a, 512b attached to the inside of the handle, an annular space between the neck and the tube, an opening to receive a scope sealed with a seal 560 and a port 531 in the handle communicating with the space to inflate the balloon.

Claim 2 recites a surgical balloon apparatus including, *inter alia*, a tubular member having a bore therein, a handle attached to the tubular member, and "a balloon having an interior space and an elongate neck, wherein a portion of the elongate neck is secured to an interior

portion of the handle thereby defining an annular space between the elongate tubular member and the neck, the annular space being in fluid communication with the interior space of the balloon."

The '058 patent, as illustrated in Figure 14 reproduced below, relates to a surgical device having a cannula 505, a housing 513, a balloon 512 having an elongate neck 512a and a mouth 512b that is secured to an interior portion of housing 513. As evidenced by Figure 14, relied upon in the Office Action, the annular space asserted in the Office Action exists between an exterior surface of the elongate neck 512a and an interior surface of the cannula 505.

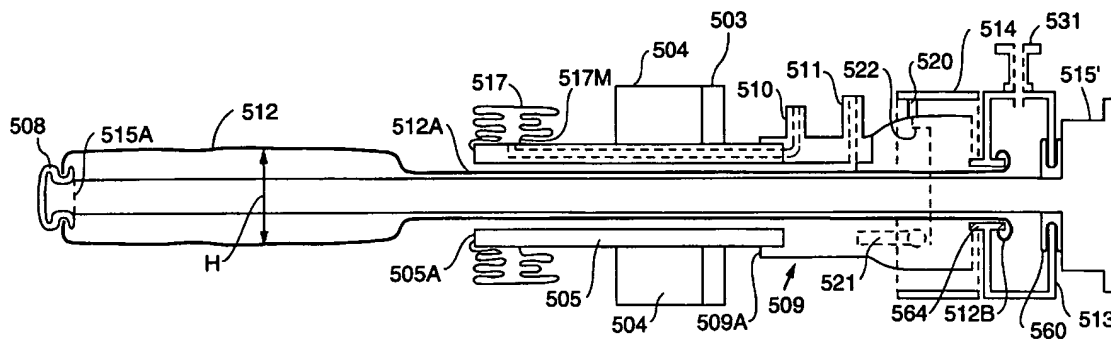


FIG. 14

The '058 patent specifically discloses the flow path for inflation or deflation of the balloon 512 where it states (Column 27, lines 30-37):

Inflation port 531 of housing 513 is used for inflating and deflating balloon 512. Port 531 is opened by inserting an inflation device, such as bulb 500 of FIG. 10, into it. When opened, port 531 provides a path for inflating balloon 512 by pumping gas (or other fluid) through mouth 512B of balloon 512 into the interior of balloon 512, and for deflating balloon 512 by allowing inflation fluid to escape from balloon 512 out through port 531.

Therefore, the '058 patent specifically discloses that the interior space of the balloon 512 is only in fluid communication with the mouth 512b of the balloon 512 inside housing 513. The annular space referred to in the Office Action is not in fluid communication with the interior of the balloon as evidenced by Figure 14 and the disclosure of the '058 patent. The '058 patent does not disclose or suggest a surgical balloon apparatus including, *inter alia*, a tubular member having a bore therein, a handle attached to the tubular member, and "a balloon having an interior space and an elongate neck, wherein a portion of the elongate neck is secured to an interior portion of the handle thereby defining an annular space between the elongate tubular member and the neck, the annular space being in fluid communication with the interior space of the balloon" as presently recited in claim 2. Therefore, it is respectfully submitted that claim 2 is neither anticipated nor suggested by the '058 patent and the objection of the Office Action has been overcome. Since claims 3, 5, 7, and 9 depend directly or indirectly from claim 2, it is respectfully submitted that these claims are not anticipated or suggested by the '058 patent and the rejection of the Office Action has been overcome.


The Applicants appreciate the Examiner's indication that claims 4, 6, 8, and 10-15 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, in view of the foregoing remarks and the fact that claims 4, 6, 8, and 10-15 depend directly or indirectly from claim 2, it is respectfully submitted that these claims are allowable over the prior art.

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Amdt. dated July 5, 2005
Reply to Office Action mailed April 5, 2005

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in the application, namely claims 2-15, are in condition for allowance. Should the Examiner desire a telephonic interview to resolve any outstanding matters, he is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,

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